

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division – In Admiralty**

PHOENIX INTERNATIONAL HOLDINGS, INC.,)

Plaintiff,)

v.)

Civil Action 2:24-cv-207

GREAT EASTERN GROUP, INC.,)

SERVE REGISTERED AGENT)

Virginia J. Hoffman)

4701 Shore Drive)

Suite 103-710)

Virginia Beach, Virginia 23455)

Defendant.)

VERIFIED COMPLAINT

(Breach of Contract; Open Account; Unjust Enrichment (Quantum Meruit))

Plaintiff, Phoenix International Holdings, Inc. (“Phoenix”), by and through undersigned counsel, for its complaint against Defendant Great Eastern Group, Inc. (“Great Eastern”) hereby alleges:

JURISDICTION

1. This is an admiralty and maritime claim within the meaning of Federal Rule of Civil Procedure 9(h), and jurisdiction is proper pursuant to 28 U.S.C. § 1333. Additionally, this Court has subject matter jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332 because Phoenix and Great Eastern are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

PERSONAL JURISDICTION AND VENUE

2. This Court has personal jurisdiction over Great Eastern because Great Eastern consented to personal jurisdiction in state and federal courts in Commonwealth through a forum selection clause. See Exhibit A, ¶ 11.
3. Venue is proper under 28 U.S.C. § 1391(b)(1) because Great Eastern is a resident of this judicial district as evidenced by its office location in Virginia Beach, Virginia.

PARTIES

4. Phoenix is a corporation organized under the laws of the Commonwealth of Virginia and has its principal place of business located at 9301 Largo Drive West, Largo, Maryland 20774. Phoenix is owned by its employees under an employee stock ownership plan (ESOP).
5. Great Eastern is a corporation organized under the laws of Florida and is registered to do business in Virginia with its principal office in the Commonwealth located at 3020 Shore Drive, Suite B, Virginia Beach, Virginia 23455.

FACTUAL ALLEGATIONS

6. In response to Great Eastern's request for a quotation, on February 24, 2023 Phoenix provided Great Eastern with a proposal to provide underwater Shaft immobilization, running gear cleaning, and CPP Flush on *OSV Hercules* including a full dive team to support the project. A true and correct copy of the Phoenix proposal to Great Eastern, including Phoenix's terms and conditions is attached to this Complaint as **Exhibit A** hereto.
7. On February 25, 2023, Great Eastern issued its purchase order #4841 accepting Phoenix's proposal, including the terms and conditions attached thereto. A true and correct copy of

the Great Eastern purchase order issued to Phoenix is attached to this Complaint as **Exhibit B**.

8. Between February 27 and March 13, 2023, Phoenix performed the services requested by Great Eastern on the *OSV Hercules* to the full satisfaction of Great Eastern. *See* email from George Hatzioannides, Great Eastern Group *OSV Hercules* Port Engineer, to Travis Niederhauser, Phoenix Area Manager, dated March 14, 2024 and attaching Customer Satisfaction Survey stating that Phoenix's performance was "excellent" in all respects. A true and correct copy of this email and the customer satisfaction survey are attached to this Complaint as **Exhibit C** hereto.
9. On March 20, 2023, Phoenix issued its invoice number 003256 to Great Eastern for the services performed on the *OSV Hercules* in the amount of \$111,701.53 which stated "Payment Terms Net 30." A true and correct copy of the Phoenix invoice number 003256 is attached as **Exhibit D** hereto.
10. Despite Phoenix's numerous demands to Great Eastern for payment of its invoice number 003256, Great Eastern has failed and refused to pay the Phoenix invoice in full.
11. During the past year, Great Eastern has never disputed the fact that Phoenix performed the underwater padeye welding and gear repair as requested in Great Eastern's purchase order or challenged Phoenix' invoice number 003256.
12. Specifically, Virginia J. Hoffman, the President of Great Eastern, confirmed with Phoenix on September 19, 2023 that Great Eastern "will start next week with payments against the balance and the goal is to have this paid in full (regardless of insurance settlement timing) no later than year end." See email from Virginia J. Hoffman, President of Great Eastern,

to Travis Niederhauser, Phoenix Area Manager, dated September 19, 2023, a true and correct copy of which is attached to this Complaint as **Exhibit E**.

13. Great Eastern made a partial payment of Ten Thousand Dollars (\$10,000.00) on October 10, 2023 but no subsequent payments have been made to Phoenix since that time. See email exchange between Liliana Castejon, Director of Accounting for Great Eastern, to Travis Niederhauser, Phoenix Area Manager, on October 10th, 2023, a true and correct copy of which is attached to this Complaint as **Exhibit F**.

14. As set forth in the Phoenix proposal and governing terms and conditions, Great Eastern was required to pay Phoenix's invoices within thirty (30) days of receipt and Great Eastern further agreed that it "shall pay interest at the rate of 1% per month on all undisputed sums due and owing to [Phoenix] that are not paid in a timely manner." See Section 2, Payment, of the Phoenix terms and conditions attached to this Complaint as Exhibit A hereto.

COUNT I:
BREACH OF CONTRACT

15. Phoenix incorporates by reference the allegations set forth in paragraphs 1 through 14, inclusive.

16. Great Eastern requested that Phoenix provide underwater repair services on the vessel *OSV Hercules*.

17. In response to that request, Phoenix provided Great Eastern with a proposal detailing the services to be provided, the cost therefore and the governing terms and conditions. See Phoenix's proposal and terms and conditions prepared for Great Eastern attached as **Exhibit A** hereto.

18. Great Eastern accepted Phoenix's proposal, including the terms and conditions, by issuing purchase order number 4841. See Great Eastern's purchase order attached as **Exhibit B** hereto.
19. Phoenix performed the underwater repair services as requested by Great Eastern on the vessel *OSV Hercules* and in accordance with the Phoenix proposal.
20. Phoenix's services were accepted by Great Eastern and Great Eastern reported that the performance by Phoenix was "excellent" in all respects. See email from George Hatzioannides, Great Eastern Group's *OSV Hercules* Port Engineer, to Travis Niederhauser, Phoenix Area Manager, dated March 14, 2023 and attaching Customer Satisfaction Survey, both of which are attached as **Exhibit C** hereto.
21. Phoenix invoiced Great Eastern on March 20, 2023. See Phoenix invoice number 003256 to Great Eastern for work performed on the *OSV Hercules* attached as **Exhibit D** hereto.
22. Great Eastern made no payments to Phoenix with respect to invoice number 003256 until October 10, 2023 at which time it paid the amount of Ten Thousand Dollars (\$10,000.00).
23. Despite promises made by Great Eastern's President, Virginia J. Hoffman, to pay the "balance in full" by "the end of the year" Great Eastern has made no further payments to Phoenix since October 10, 2023.
24. Phoenix made multiple efforts to collect the money due and owing to it under its agreement with Great Eastern but, as of this date, Great Eastern has stopped all communications with Phoenix.

25. Phoenix has been damaged as a result of Great Eastern's failure to pay in the amount of \$114,024.34 which represents overdue principal and interest calculated through March 15, 2024.¹

COUNT II
CLAIM OF AN ACCOUNT STATED
(in the alternative to Count I, Breach of Contract)

26. Phoenix incorporates by reference the allegations set forth in paragraphs 1 through 25, inclusive.

27. The course of conduct between Phoenix and Great Eastern evidence an account stated.

28. Phoenix has invoiced Great Eastern for the amounts due for Phoenix's repair services on the *OSV Hercules* and Great Eastern has not disputed those changes nor the interest which has accrued on the amount due.

29. Ms. Virginia J. Hoffman, President of Great Eastern, admitted as much in her October 18, 2023 when she told Phoenix "I appreciate your patience with us as we work to get you paid. **I am in agreement with your interest collection statements** below and will budget accordingly." See email from Virginia J. Hoffman, President of Great Eastern, to Travis

¹ The principal and interest are calculated as follows:	
Phoenix Invoice #003256 (March 20, 2023)	\$111,701.53
Interest on Total Invoiced Amount (1% compounded per month)	
(April 19 – Oct 10, 2023; 175 days/364 days = 0.481 years) ¹	\$ 6,603.20
Sub-Total	\$118,304.73
Payment by Great Eastern (October 10, 2023)	(\$ 10,000.00)
Balance Due as of October 11, 2023	\$108,304.73
Interest on Reduced Principal (1% compounded per month)	
(Oct 11, 2023 – March 15, 2024; 157 days/364 = .431 years)	\$ 5,719.61
TOTAL AMOUNT DUE	\$114,024.34

Niederhauser, Phoenix Area Manager, dated October 18, 2023, a true and correct copy of which is attached to this Complaint as **Exhibit G** hereto. The relationship between Phoenix and Great Eastern constitutes an open account under Virginia law.

30. Subsequent to that email exchange between Ms. Hoffman and Mr. Niederhauser, Great Eastern made no further payments to Phoenix nor did Great Eastern dispute the amount of the principal or interest due.
31. Based on this conduct, Great Eastern acknowledged the existence of a stated account due and owing to Phoenix.
32. Phoenix is currently owed the amount of \$114,024.34 on this stated account, with interest accrued through March 15, 2024.

COUNT III
UNJUST ENRICHMENT (QUANTUM MERUIT)
(in the alternative to Count I and Count II)

33. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 32, inclusive.
34. Phoenix performed valuable underwater repair services on the *OSV Hercules* at the request and direction of Great Eastern.
35. Great Eastern received the benefit of those services and acknowledged the value of those services and its responsibility for payment on several occasions. See, e.g., emails from Virginia J. Hoffman, President of Great Eastern, to Travis Niederhauser, Phoenix Area Manager, dated September 19, 2023 and October 18, 2023, which are attached to this Complaint as Exhibits E and G, respectively.

36. In the absence of full compensation by Great Eastern to Phoenix for the value of the repair services on the *OSV Hercules*, Great Eastern will be unjustly enriched.

37. Phoenix states that the value of its services provided to Great Eastern for the *OSV Hercules* is no less than \$ 114,024.34.

WHEREFORE, Plaintiff Phoenix International Holdings, Inc. respectfully prays for the entry of judgment in its favor and against Defendant Great Eastern Group, Inc. as follows:

- A. that judgment be entered in favor of Phoenix and against Great Eastern on Count I, Breach of Contract, in the amount of \$ 114,024.34;
- B. in the alternative, that judgment be entered in favor of Phoenix against Great Eastern on Count II, Claim on Account Stated, in the amount of \$ 114,024.34;
- C. in the further alternative to judgment under Count I or Count II, that judgment be entered in favor of Phoenix against Great Eastern on Count III, Unjust Enrichment (Quantum Meruit), in the amount of \$ 114,024.34;
- D. Pre-judgment interest from the date of judicial demand; and
- E. Post-judgment interest from the date of the entry of such judgment until Great Eastern has paid Phoenix in full.

Phoenix further prays for such other and further relief as this Court shall deem just and equitable.

Respectfully submitted,

PHOENIX INTERNATIONAL HOLDINGS, INC.,

By: /s/ Marissa M. Henderson
David N. Ventker (VSB No. 29983)

Marissa Henderson (VSB No. 44156)
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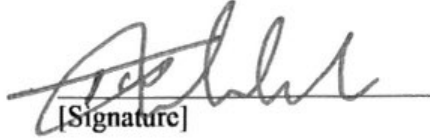
Attorneys for Plaintiff
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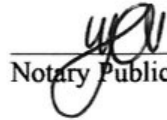
VERIFICATION

I, Travis Niederhauser, the Area Manager for Phoenix International Holdings, Inc. in Hawaii, being of adult age and a resident of the state of Hawaii, do hereby verify the factual allegations contained in the foregoing Verified Complaint as true and accurate based on my personal knowledge, information and belief.


[Signature]

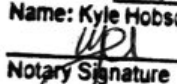
State of Hawaii }
City of and county of Honolulu }

On this the 27th day of March 2024, the individual Travis Niederhauser appeared before me and in my presence acknowledged this instrument as his statement of fact as stated above.


Notary Public Kyle Hobson Dudoit

My Commission Expires: September 13, 2027



NOTARY CERTIFICATE, STATE OF HAWAII
Doc. Description/ID: Verification
Doc. Date: undated Pages: 1
Name: Kyle Hobson Dudoit 1st Circuit
 3/27/24
Notary Signature Cert. Date

